

THE CONNER CENTER
9105 OWENS DRIVE
POST OFFICE BOX 2126
MANASSAS PARK, VIRGINIA 22111
(703) 361-2278
ACS (703) 361-0594

Thomas J. McCabe
Robert G. Allen
Denise B. Moline

Douglas W. Harold, Jr.
Lloyd D. Young
Of Counsel

MC CABE & ALLEN

ORIGINAL

ORIGINAL
FILE

2000 L STREET, N.W.
SUITE 200
WASHINGTON, D.C. 20036
(202) 462-7872
Telex 373-0708
FACS (202) 833-3843

Direct Correspondence to
office.

Virginia

RECEIVED

MAY 21 1991

Federal Communications Commission
Office of the Secretary

May 21, 1991

Ms. Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

RE: MM Docket No. 91-10
Baldwin, Florida
M&A #15111

Dear Ms. Searcy:

On behalf of Charley Cecil & Dianna Mae White, d/b/a White Broadcasting Partnership, Applicant for a new FM Station at Baldwin, Florida in the above-referenced Docket proceeding, there is transmitted herewith an original plus six (6) copies of a Motion to Enlarge Issues Against Peaches Broadcasting, Ltd.

Should there be any questions, please contact the undersigned.

Very truly yours,


Denise B. Moline

DBM:wp
Attachment

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C.

In re Applications of)
)
Charley Cecil & Dianna)
Mae White, d/b/a)
WHITE BROADCASTING PARTNERSHIP)
)
et al.)
)
For Construction Permit)
for a new FM Station, Channel 289A)
Baldwin, Florida)
)
To: Honorable Edward Luton)
Administrative Law Judge)

MM DOCKET NO. 91-10

FILE NO. BPH-891214MM

RECEIVED

MAY 21 1991

Federal Communications Commission
Office of the Secretary

**MOTION TO ENLARGE ISSUES
AGAINST PEACHES BROADCASTING, LTD.**

Charley Cecil & Dianna Mae White, d/b/a WHITE BROADCASTING PARTNERSHIP ("White") by its counsel and pursuant to Section 1.229 of the Commission's rules, hereby submits a Motion to Enlarge Issues Against Peaches Broadcasting, Ltd. ("Peaches") to include the following issues:

1. To determine whether Peaches has violated Section 73.3594 of the Commission's rules and the Hearing Designation Order in the above-captioned proceeding, DA 91-122 (released February 11, 1991) by failing to publish an effective Public Notice.
2. To determine whether Peaches has violated Section 73.3526(a) of the Commission's rules by failing to maintain a proper Public Inspection file.
3. To determine whether Peaches has exhibited a sufficient degree of carelessness of ineptitude with regard to its application as to render it unsuitable to be a FCC licensee.
4. To determine, in view of the forgoing, whether the applicant is basically qualified to be a FCC licensee.

In support of the above issues, the following is shown.

I. VIOLATION OF SECTION 73.3594 OF THE COMMISSION'S RULES.

1. Peaches has violated Section 73.3594(a) of the Commission's rules in failing to provide timely and adequate public notice regarding the Hearing Designation Order ("HDO") in this proceeding. Section 75.3594(a) of the Commission's rules provides that applicants shall give notice of designation for hearing at least twice a week, for 2 consecutive weeks within the 3-week period immediately following release of the FCC's order, specifying the time and place of the commencement of the hearing, in a daily newspaper of general circulation published in the community in which the station is located or proposed to be located, or in a weekly newspaper of general circulation published in the community, once a week for three consecutive weeks within the 4-week period immediately following the release of the FCC's order. If no daily or weekly newspapers are published in the community, publication is to be accomplished by publication in a daily newspaper of general circulation in the area to be served.

2. In this proceeding, the HDO was released on February 11, 1991. Pursuant to the above-stated rule, public notice should have been completed by all parties no later than March 15, 1991. While it is customary for the Commission and hearing officers to afford some latitude with respect to the timing of publications, it is nevertheless customary to have completed publication of the HDO on or before date of the Prehearing Conference in a given proceeding.¹

¹In this proceeding all other parties completed their publication before the Prehearing Conference: White completed its publication within the designated period, by March 7, 1991; JEM

3. Here, Peaches has not only failed to provide timely publication of the HDO in a daily newspaper of general circulation in Baldwin, Florida, it has also failed to complete any adequate publication of the HDO whatsoever. Exhibit 1 hereto is a copy of Peaches' Partial Statement of Publication which was filed by Peaches on April 24, 1991, the day before the Prehearing Conference in this proceeding. Peaches partial proof demonstrates that Peaches published three public notices regarding the HDO, on March 14, 15, and 18, 1991 in a Business Journal, the Financial News and Daily Record, and one public notice, dated April 14, 1991, in a daily newspaper published in Jacksonville, Florida, the Florida Times-Union.

4. Peaches alleged that publication in the Florida Times-Union was requested in a timely manner,² but offered no demonstration of that request, either by way of written document or affidavit. Peaches also acknowledged that its untimely publication in the Financial News and Daily Record was inadequate, but represented that it would publish the remaining required notices in the Florida Times-Union in the next eight days (or by May 1, 1991).

5. To date, no further proof of publication has been filed

Productions Limited Partnership completed its publication by March 14, 1991; Northeast Florida Broadcasting Corp. completed its publication by March 26, 1991, shortly after close of the designated period; Douglas Johnson completed his publication by March 15, 1991. All parties other than Peaches published notices in the Florida Times-Union.

²See Peaches' Partial Statement of Publication, fn. 1.

by Peaches.³ The documents filed by Peaches in its Partial Statement of Publication contradict the representations made in the statement accompanying the copy of the Partial Proof, and do not indicate that publication in the Florida Times-Union was requested by Peaches in a timely fashion. Peaches' publication in the business journal also does not appear to have been requested in a timely fashion, and was not published in compliance with the Rules. Moreover, the untimely publication in the Florida Times-Union published on Sunday, April 14, 1991, was not followed by any other publication in that same week, despite the fact that another notice should have been published that same week, and that such publication could have been evidenced by Peaches prior to the date of the Prehearing Conference.

6. It has been more than three months since the release of the HDO, and since the time and place of the Hearing was published by the Commission.⁴ Peaches has not, to date, undertaken to provide adequate public notice of the HDO in any fashion, (see fn. 3, herein) and its failure cannot be tolerated, especially in view of the substantially timely publication by the other applicants in this proceeding. (See fn. 1, infra.) Moreover, Peaches'

³On May 15, 1991, Counsel for White contacted staff personnel in the legal notice department of the Florida Times-Union, and was advised that no further request for publication has been made either by telephone or in writing by Peaches or on behalf of Peaches. No further request for publication has been made by Peaches, as of the date of this Pleading.

⁴By Order, FCC 91M-569 (Released February 14, 1991) the Presiding Judge was appointed, and the initial date and place of Hearing were set.

representations to the Presiding Judge and the parties in this proceeding in its Partial Statement of Publication, followed by its failure to comply with the Commission's rules and the specific order contained in the Hearing Designation Order raise the question of whether Peaches has misrepresented itself to the Commission and the parties in this proceeding.

7. Peaches has also violated §73.3594(d)(5) of the public notice rule by failing to give notice of the exact location of its Public Inspection File. Peaches' public notices both state that the Public Inspection File is located at the public library in Baldwin, Florida. In fact, as demonstrated in the attached Declaration of Charley Cecil White,⁵ there is no public library in Baldwin, Florida, and Peaches' Public Inspection File is located at the Baldwin Town Hall. Thus, Peaches' ineffective Public Notice is misleading as well, to the detriment of the parties as well as to the detriment of the general public.

8. In Character Qualifications in Broadcast Licensing, 59 RR 2d 801, 805 (1986) the Commission voiced its concern with the reliability of applicants to perform prospectively all of the obligations of a broadcast licensee, and stated that if it had reason to believe an applicant cannot be expected in the future to fulfill its obligations as a broadcast licensee, its application should be denied. In this case, questions exist regarding the reliability of the applicant to comply with Commission rules and Orders. An issue to inquire into Peaches' failure to provide

⁵See Exhibit 2.

timely and correct notice, and to determine the impact of its careless and negligence with respect to the Commission's public notice rule on its basic qualifications is warranted.

II. VIOLATION OF SECTION 73.3526 et seq. OF THE COMMISSION'S RULES.

9. Peaches has also violated §73.3526 of the Commission's rules by failing to maintain a complete Public Inspection File. Exhibit 2, which consists of a Declaration by Charley Cecil White, attests that all the material attached to his Declaration is a copy of everything contained in Peaches' Public Inspection File, except for Peaches' application.⁶ The attached material clearly demonstrates that Peaches is in violation of the Public Inspection File requirements set forth in §73.3526.

1. Missing Items in Peaches' Application

10. Peaches' Public Inspection file does not contain a copy of "The Public and Broadcasting - Procedure Manual" in violation of Section 73.3526(a)(6) of the Commission's rules.

11. Peaches' Public Inspection file also does not include the Publishers Affidavit regarding the public notice of filing of the Application, as required by §73.3580(h).

12. Peaches' Public File does not contain all amendments associated with Peaches' application, as required under §73.3526(a)(1) of the Commission's rules. Peaches filed a Petition for Leave to Amend on February 1, 1991, to report withdrawal of its

⁶Peaches' application was not copied or reproduced for purposes of this Motion to reduce the amount of paper attached to this Motion. However, Mr. White has attested to the fact that Peaches' application was contained in its Public File.

limited partner, Stephan Weissman, and to substitute a new limited partner, United Communications, Inc.⁷ On April 17, 1991, Peaches filed a Resubmission of Petition for Leave to Amend to reinstate the February 1, 1991 amendment which had been returned by the Mass Media Bureau.⁸ Neither of these filings appear in Peaches' Public Inspection file. Given the amount of time which has passed since the amendment was originally submitted, there is no reason that a copy of the February 1, 1991 amendment should not be available in Peaches' Public Inspection File. Exhibit 4 consists of verification from the Town Clerk's office that, as of April 24, 1991, Peaches Public Inspection file had not included a copy of this Amendment.

2. Extraneous Material Contained in the Public File

13. Peaches' Public Inspection File does contain a Petition for Leave to Amend and Amendment for Fahlda Broadcasting Company. While the inclusion of extraneous material is not necessarily a violation of §73.3526,⁹ the presence of material relating to a

⁷See Exhibit 3.

⁸Exhibit 3. The Bureau returned the amendment because the Hearing Designation Order had already been adopted. The Bureau advised Peaches to resubmit the amendment to the Presiding Judge.

⁹A number of items included in Peaches' Public Inspection File are not required to be maintained in the applicant's public file, for example, the Order appointing the Presiding Judge in this proceeding, Peaches' Notice of Appearance, Peaches' Declaration of No Consideration, filed March 20, 1991, Peaches' Reply to Opposition to Contingent Motion for Summary Decision, filed April 5, 1991, and Peaches' Supplement to Reply to Opposition to Contingent Motion for Summary Decision, filed April 10, 1991. None of these pleadings are required to be maintained in Peaches' Public Inspection File.

different application raises questions pertaining to other media interest Peaches may have. If the presence of that material is merely a mistake, and if Fahlda Broadcasting Company is not related to Peaches in any way, then the presence of that Petition raises additional questions regarding the lackadaisical manner in which Peaches' file is maintained.

14. The omissions in Peaches' Public Inspection File, and the extraneous and foreign documents contained therein warrant inquiry into the applicant's violation of the Commission's requirements for new applicant Public Inspection Files. Although Peaches may argue that this is a minor or ministerial matter, the apparent carelessness with which Peaches has treated its file, which is the source of local, public information concerning Peaches' application reflects on Peaches' reliability in complying with Commission rules, and warrants addition of an issue to inquire into whether Peaches has violated the Commission's requirements, and what impact this should have on Peaches' qualifications to be a Commission licensee. Character Qualifications, supra.

15. In Henry R. Malloy, Jr., d/b/a REM Malloy Broadcasting, FCC 91D-17 (Released April 14, 1991) (Supp. I.D., ALJ), the Presiding Judge, in a remand proceeding, added basic qualifications issues against an applicant which had been reinstated by the Commission, for its failure to maintain the Public Inspection File at its AM Station. Peaches' violation of the Commission's Rules in the course of prosecution of its application similarly reflects on Peaches' basic qualifications to be a Commission licensee, and an

issue against Peaches for its failure to maintain its Public Inspection File is warranted.

III. CARELESSNESS AND INEPTITUDE ISSUE

16. In view of the foregoing requested issues, White submits that an additional issue should be added to inquire into whether Peaches has exhibited that degree of careless and ineptitude with respect to compliance with Commission requirements as to impact on Peaches' basic qualifications. Peaches' negligence with respect to publication of the HDO and maintenance of its Public Inspection File demonstrates a pattern of carelessness and negligence, even so early in this proceeding, which warrants further inquiry into Peaches' qualifications. Mark L. Wodlinger, 62 RR 2d 888 (ALJ, 1987); Minority Broadcasters of East St. Louis, Inc., 52 RR 2d 687 (ALJ, 1982). Certainly, addition of such issues is warranted where, as here, the applicant has exhibited an unusual degree of failure to comply with the Commission's rules, without any apparent reason therefor.

17. For the foregoing reasons, White respectfully requests that the Presiding Judge GRANT the instant Motion, and ADD the issues set forth above against Peaches Broadcasting, Ltd.

Respectfully submitted,

Charley Cecil & Dianna Mae White
d/b/a
WHITE BROADCASTING PARTNERSHIP

By: Denise B. Moline
Denise B. Moline

Its Attorney

McCabe & Allen
9105B Owens Drive
P.O. Box 2126
Manassas Park, VA 22111

(703) 361-2278

May 21, 1991

MM Docket No. 90-10
WHITE BROADCASTING PARTNERSHIP

BALDWIN, FLORIDA
MOTION TO ENLARGE ISSUES

EXHIBIT 1

Dfj AL
15 111

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of) MM Docket No. 91-10
)
WHITE BROADCASTING PARTNERSHIP) File No. BPH-891214MM
et al.)

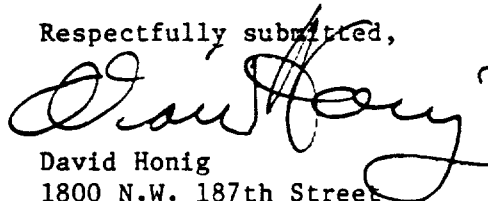
For Construction Permit for a New FM Station
Station on Channel 289A in Baldwin, Florida

To: Hon. Edward Luton, Administrative Law Judge

PARTIAL STATEMENT OF PUBLICATION

Peaches Broadcasting, Ltd. hereby submits partial proof that it has provided public notice of designation for hearing of the above-captioned applications. Peaches has attempted in good faith to complete publication, and has in fact published its notice four times.^{1/}

Respectfully submitted,


David Honig
1800 N.W. 187th Street
Miami, Florida 33056
(305) 628-3600

Counsel for Peaches Broadcasting, Ltd.

April 23, 1991

^{1/} Publication in the Florida Times-Union was requested in a timely manner by Peaches. However, due to miscommunication with the classified department of the newspaper, publication did not commence right away. In the mistaken belief that publication could take place in a daily business newspaper, Peaches published the notice three times in Jacksonville's Financial News and Daily Record. It has now completed publication once in the Florida Times-Union, and will publish the remaining three required notices in that newspaper in the next eight days. By the end of next week, Peaches intends to file a statement showing that it has properly completed publication in the Florida Times-Union.

FINANCIAL NEWS &
Daily Record

PROOF OF PUBLICATION

(Published Daily Except Saturday and Sunday)
Jacksonville, Duval County, Florida

STATE OF FLORIDA, }
COUNTY OF DUVAL, } ss:

Before the undersigned authority personally appeared
Donna R. Collins, who on oath says that she is the Business Manager of FINANCIAL
NEWS and DAILY RECORD, a daily (except Saturday and Sunday) newspaper published at
Jacksonville, in Duval County, Florida; that the attached copy of advertisement, being a

PUBLIC NOTICE

in the matter of FM Channel 289A

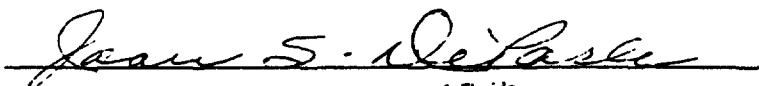
in the _____ Court, of Duval County, Florida, was published
in said newspaper in the issues of March 14, 15, 18, 1991

Affiant further says that the said FINANCIAL NEWS and DAILY RECORD is a newspaper
at Jacksonville, in said Duval County, Florida, and that the said newspaper has heretofore
been continuously published in said Duval County, Florida, each day (except Saturday and
Sunday) and has been entered as second class matter at the post office in Jacksonville, in
said Duval County, Florida, for a period of one year next preceding the first publication of
the attached copy of advertisement; and affiant further says that he has neither paid nor
promised any person, firm or corporation any discount, rebate, commission or refund for the
purpose of securing this advertisement for publication in said newspaper.



Business Manager

Sworn to and subscribed before me this 18th day of March A.D. 19 91



Notary Public, State of Florida
My Comm. Exp Oct. 14, 1994

PUBLIC NOTICE

The Federal Communications Commission has designated for hearing the following applications for a construction permit to operate a new FM radio station on FM Channel 289A in Baldwin, Florida: White Broadcasting Partnership; Peaches Broadcasting, Ltd.; Sage Broadcasting Corporation of Jupiter, Florida; First Coast Broadcasting Company; Douglas Johnson; Northeast Florida Broadcasting Corp; and JEM Productions, Limited Partnership c/o Joyce Morgan.

The hearing is scheduled to occur at a time and place to be determined. The issues to be determined in the hearing are:

(1) To determine whether there is a reasonable possibility that the tower height and location proposed by White, Peaches, Sage, Coast, Johnson and Northeast would constitute a hazard to air navigation.

(2) To determine which of the proposals would, on a comparative basis, best serve the public interest.

(3) To determine, in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any.

A copy of the application of Peaches Broadcasting, Ltd., together with amendments thereto and related material, is on file for public inspection at the public library in Baldwin, Florida.
Mar. 14/15/18 (91-1732)

FLORIDA PUBLISHING COMPANY

Publisher

JACKSONVILLE, DUVAL COUNTY, FLORIDA

STATE OF FLORIDA }
COUNTY OF DUVAL }

Before the undersigned authority personally appeared _____

Donna Sapp who on oath says that he is

a classified advertising rep of The Florida Times-Union,

a daily newspaper published at Jacksonville in Duval County, Florida; that the

attached copy of advertisement, being a legal notice

in the matter of public notice

in the _____ Court,

was published in THE FLORIDA TIMES-UNION in the issues of _____

April 14th, 1991

Affiant further says that the said The Florida Times-Union is a newspaper published at Jacksonville, in said Duval County, Florida, and that the said newspaper has heretofore been continuously published in said Duval County, Florida, The Florida Times-Union each day, has been entered as second class mail matter at the postoffice in Jacksonville, in said Duval County, Florida, for a period of one year next preceeding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Subscribed to and subscribed before me
this 15th day of

April A.D. 1991.

Molly Strain
Notary Public,
State of Florida at Large.

My Commission Expires _____

Notary Public, State of Florida

DA 444 My Commission Expires Dec. 2, 1994

Recorded Thru Troy Fair - Insurance Inc.

PUBLIC NOTICE

The Federal Communications has designated hearing the following applications for a construction permit to operate a new FM radio station FM Channel 299A in Baldwin, Florida: White Broadcasting Partnership; Peachtree Broadcasting Ltd.; Sage Broadcasting Corporation of Jacksonville, Florida; First Coast Broadcasting Company; Douglas Johnson; Northeast Florida Broadcasting Corporation and JEM Productions, Limited Partnership of Joyce Morgan. The hearing is scheduled to occur at a time and place to be determined. The issues to be determined in the hearing are: (1) To determine whether there is reasonable possibility that the tower height and location proposed by White, Peachtree, Sage, Coast, Johnson and Northeast would constitute a hazard to air navigation. (2) To determine which of the proposals would, on a comparative basis, best serve the public interest. (3) To determine in light of the evidence adduced pursuant to the specified issues, which of the applications should be granted, if any. A copy of the application of Peachtree Broadcasting, Ltd., together with amendments thereto and related material, is on file for public inspection at the public library in Baldwin, Florida.

MM Docket No. 90-10
WHITE BROADCASTING PARTNERSHIP

BALDWIN, FLORIDA
MOTION TO ENLARGE ISSUES

EXHIBIT 2

DECLARATION OF CHARLEY CECIL WHITE

I, Charley Cecil White, am general Partner of White Broadcasting Partnership. I understand that this Declaration is being submitted under penalty of perjury in connection with a Motion to Enlarge Issues before the Federal Communications Commission in an adjudicatory comparative proceeding for a new FM Station at Baldwin, Florida.

On May 6, 1991, I reviewed the Public Inspection File for Peaches Broadcasting, Ltd., ("Peaches") which is maintained at the Baldwin Town Hall. The attached material was copied by the Town Clerk, at my request, and is an exact copy of all items contained in that Public Inspection File, except for Peaches' original application. Those items include the following:

1. Peaches' December 14, 1989 application filed at the Federal Communications Commission;
2. Order, FCC 91M-569 (Released February 14, 1991) regarding the appointment of Judge Luton as the Presiding Judge;
3. Peaches' Notice of Appearance;
4. Peaches' Petition for Leave to Amend and Amendment, dated March 2, 1991;
5. Peaches' Declaration of No Consideration, dated March 20, 1991;
6. Peaches' Petition for Leave to Amend and Amendment, dated March 20, 1991 (re: resignation of Frederick Matthews) (two copies);
7. Peaches' Petition for Leave to Amend and Amendment, dated March 20, 1991 (re: new address for Glenn Haydel) (two copies);
8. Peaches' Reply to Opposition to Contingent Motion for Summary Decision, dated April 5, 1991;
9. Peaches' Supplement to Reply to Opposition to Contingent

Motion for Summary Decision, dated April 10, 1991;

10. Fahlda Broadcasting Company's Petition for Leave to Amend and Amendment.

There were no other items contained in the Public File, and no other Public Inspection File was being maintained for Peaches at that location.

This will also certify that there is no Public Library in Baldwin, Florida.

I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information, and belief.

5-13-91
Date

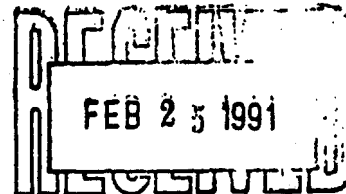
Charley Cecil White
Charley Cecil White, General Partner
White Broadcasting Partnership

Before the
Federal Communications Commission
Washington, D. C. 20554

FCC 91M-569

2602

In re Applications of)	MM DOCKET NO. 91-10
)	
CHARLEY CECIL & DIANNA MAE WHITE)	
d/b/a WHITE BROADCASTING PARTNERSHIP)	File No. BPH-891213MM
)	
PEACHES BROADCASTING, LTD.)	File No. BPH-891214MN
)	
SAGE BROADCASTING CORPORATION OF)	File No. BPH-891214MR
JUPITER, FLORIDA)	
)	
FIRST COAST BROADCASTING COMPANY)	File No. BPH-891214MU
)	
DOUGLAS JOHNSON)	File No. BPH-891214MZ
)	
NORTHEAST FLORIDA BROADCASTING CORP.)	File No. BPH-891214NA
)	
JEM PRODUCTIONS, LIMITED PARTNERSHIP)	File No. BPH-891214ND
C/O JOYCE MORGAN)	
)	
For Construction Permit for a)	
New FM Station on Channel 289A)	
in Baldwin, Florida)	



ORDER

Issued: February 12, 1991 ; Released: February 14, 1991

IT IS ORDERED, That Administrative Law Judge Edward Luton shall serve as Presiding Judge in the above-entitled proceeding; that the hearing therein shall be convened on May 24, 1991, at 10:00 a.m., and the prehearing conference shall be held on April 24, 1991, commencing at 9:00 a.m.; and,

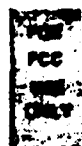
IT IS FURTHER ORDERED, That all proceedings shall take place in the Offices of the Commission, Washington, D. C.

All parties are put on notice that they are expected to be fully cognizant of Part I of the Commission's Rules and Regulations concerning Practice and Procedure.

FEDERAL COMMUNICATIONS COMMISSION


Walter C. Miller
Acting Chief Administrative Law Judge

FEDERAL COMMUNICATIONS COMMISSION
FEE PROCESSING FORM
DUPLICATE COPY



Please read instructions on back of this form before completing it. Section I MUST be completed. If you are applying for concurrent actions which require you to list more than one Fee Type Code, you must also complete Section II. This form must accompany all payments. Only one Fee Processing Form may be submitted per application or filing. Please type or print legibly. All required blocks must be completed or application/filing will be returned without action.

SECTION I

APPLICANT NAME (Last, first, middle initial)

Peaches Broadcasting, Ltd.

MAILING ADDRESS (Line 1) (Maximum 35 characters - refer to Instruction (2) on reverse of form)

c/o Law Office of David Honig

MAILING ADDRESS (Line 2) (If required) (Maximum 35 characters)

1800 N.W. 187th Street

CITY

MIAMI

STATE OR COUNTRY (If foreign address)

FL

ZIP CODE

33056

CALL SIGN OR OTHER FCC IDENTIFIER (If applicable)

BPH-891214MN (MM Docket No. 91-10)

Enter in Column (A) the correct Fee Type Code for the service you are applying for. Fee Type Codes may be found in FCC Fee Filing Guides. Enter in Column (B) the Fee Multiple, if applicable. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number entered in Column (B), if any.

	(A) FEE TYPE CODE	(B) FEE MULTIPLE (if required)	(C) FEE DUE FOR FEE TYPE CODE IN COLUMN (A)	FOR FCC USE ONLY
(1)	M W R		\$ 6,760.00	

SECTION II — To be used only when you are requesting concurrent actions which result in a requirement to list more than one Fee Type Code.

	(A) FEE TYPE CODE	(B) FEE MULTIPLE (if required)	(C) FEE DUE FOR FEE TYPE CODE IN COLUMN (A)	FOR FCC USE ONLY
(2)			\$	
(3)			\$	
(4)			\$	
(5)			\$	
ALL AMOUNTS SHOWN IN COLUMN C, LINES (1) THROUGH (5), AND ENTER THE TOTAL HERE. THIS AMOUNT SHOULD EQUAL YOUR ENCLOSED REMITTANCE.			TOTAL AMOUNT REMITTED WITH THIS APPLICATION OR FILING \$ 6,760.00	FOR FCC USE ONLY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of) MM Docket No. 91-10
WHITE BROADCASTING PARTNERSHIP)
et al.) File No. BPH-891214MM

For Construction Permit for a New FM Station
Station on Channel 289A in Baldwin, Florida

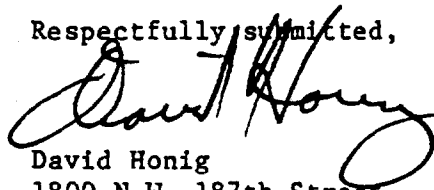
To: Hon. Edward Luton, Administrative Law Judge

NOTICE OF APPEARANCE

Peaches Broadcasting, Ltd. ("Peaches"), by counsel and pursuant to Section 1.221 of the Commission's Rules, hereby respectfully notes its appearance in the above-referenced matter, and states its intention to appear at the hearing and to adduce evidence on all issues set forth in the Hearing Designation Order herein.

The required \$6,760 hearing fee is being dispatched on March 2, 1991 by Federal Express to the FCC Fee Branch in Pittsburgh, Pennsylvania, marked for delivery March 4, 1991. Copies of the check and airbill are appended hereto.

Respectfully submitted,



David Honig
1800 N.W. 187th Street
Miami, Florida 33056
(305) 628-3600

Counsel for Peaches Broadcasting, Ltd.

March 2, 1991

DAVID E. HONIG, ESQ.
ESCROW ACCOUNT
PH. 305-628-3600
1800 NW. 187TH ST.
OPA-LOCKA, FL 33056

438

2/28/91 19

63-550994
660

PAY TO THE
ORDER OF

Federal Communications Commission

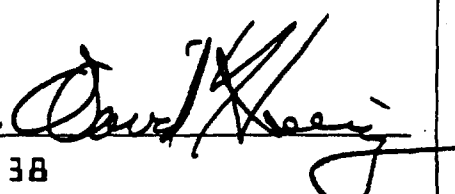
\$ 6,760.00

Six Thousand Seven Hundred and Sixty and 00/100-----
DOLLARS

NCNB

NCNB National Bank
of Florida
Miami, Florida

MEMO Peaches Ltd. Hearing Fee, Baldwin, FL



⑆066005502⑆ 3504953489⑈ 0438

**FEDERAL
EXPRESS**USE THIS AIRBILL FOR SHIPMENTS WITHIN THE CONTINENTAL U.S.A., ALASKA AND HAWAII.
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9391644404

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7227

Sender's Federal Express Account Number

1237-1370-2

Date

3/2/91

From (Your Name) Please Print

DAVID HONIG

Company

HONIG, DAVID, ATTORNEY

Street Address

1800 NW 187TH ST

City

MIAMI

State

FL

ZIP Required

3 3 0 5 6

To (Recipient's Name) Please Print

Federal Communications Commission

ATTN: WHOLESALE LOCKBOX SHIFT SUPERVISOR

c/o Mellon Bank, 3 Mellon Bank Center

Exact Street Address (We Cannot Deliver to P.O. Boxes or P.O. Zip + Codes)

27th floor, Room 153-2713

City

Pittsburgh

State

PA

ZIP Required

YOUR INTERNAL BILLING REFERENCE INFORMATION (First 24 characters will appear on invoice.)

Peaches

IF HOLD FOR PICK-UP, Print FEDEX Address Here

Street Address

City

State

ZIP Required

PAYMENT ☒ Bill Sender ☐ Bill Recipient's FedEx Acct No ☐ Bill 3rd Party FedEx Acct No ☐ Bill Credit Card
☐ Cash/Check ☐ Acct./Credit Card No. ☐ Exp. Date

SERVICES
(Check only one box)Priority Overnight Service
(Delivery by next business morning†)11 ☐ YOUR PACKAGING12 ☒ FEDEX LETTER*13 ☐ FEDEX PAK*14 ☐ FEDEX BOX15 ☐ FEDEX TUBEStandard Overnight Service
(Delivery by next business afternoon†)51 ☐52 ☐ FEDEX LETTER*53 ☐ FEDEX PAK*54 ☐ FEDEX BOX55 ☐ FEDEX TUBEEconomy Two-Day Service
(formerly Standard Air)
(Delivery by second business day†)30 ☐ ECONOMY TWO-DAY SVC.

† Delivery commitment may be later in some areas.

Heavyweight Service
(for Extra Large or any package over 150 lbs.)70 ☐ HEAVYWEIGHT**80 ☐ DEFERRED HEAVYWEIGHT****Declared Value Limit \$100
**Call for delivery scheduleDELIVERY AND SPECIAL HANDLING
(Check services required)1 ☐ HOLD FOR PICK-UP (If a in Box 14)2 ☒ DELIVER WEEKDAY3 ☐ DELIVER SATURDAY (Less charge) (Not available in all locations)4 ☐ DANGEROUS GOODS (Less charge)5 ☐6 ☐ DRY ICE (Less charge)7 ☐ OTHER SPECIAL SERVICE8 ☐9 ☒ SATURDAY PICK-UP (Less charge)10 ☐11 ☐12 ☐ HOLIDAY DELIVERY (If allowed) (Less charge)

PACKAGES

WEIGHT

YOUR DECLARED

VALUE

in Pounds

Oz

Lbs

Lbs

Total

Total

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Total

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SERVICE CONDITIONS, DECLARED VALUE
AND LIMIT OF LIABILITY

Use of this airbill constitutes your agreement to the service conditions in our current Service Guide, available upon request. See back of sender's copy of this airbill for information.

We will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, and document your actual loss for a timely claim. Maximum amount limitations found in the current Federal Express Service Guide apply. Your right to recover from Federal Express for any loss, including interest value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the declared value specified to the left. Recovery cannot exceed actual documented loss. The maximum Declared Value for FedEx Letter and FedEx Pak packages is \$100.00. In the event of untimely delivery, Federal Express will at your request and with some limitations, refund all transportation charges paid. See Service Guide for further information.

Sender authorizes Federal Express to deliver this shipment without obtaining a delivery signature and shall indemnify and hold harmless Federal Express from any claims resulting therefrom.

Release Signature

Date/Time

FedEx

Emp. No

Federal Express Use

Base Charges

Declared Value Charge

Other 1

Other 2

Total Charges

REVISION DATE 8/90

PART #119501

FORMAT #041

FXEM 10/90

041

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USA

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CUSTOMER:
PLEASE REMOVE ONE OF THESE LABELS AND
PLACE IT ABOVE THE AIRBILL POUCH.h0h h9t6e6
h0h h9t6e6

CERTIFICATE OF SERVICE

I, David Honig, this 2nd day of March, 1991, hereby certify that I have placed in U.S. First Class Mail, postage prepaid, a copy of the foregoing "Notice of Appearance" addressed to the following:

Hon. Edward Luton
Administrative Law Judge
Federal Communications
Commission
2000 L Street N.W.
Washington, D.C. 20554

Denise B. Moline, Esq.
McCabe & Allen
9105 Owens Dr.
Manassas Park, VA 22111
Counsel for White

Dennis Kelly, Esq.
Cordon & Kelly
1920 N St. N.W.
Washington, D.C. 20036
Counsel for First Coast

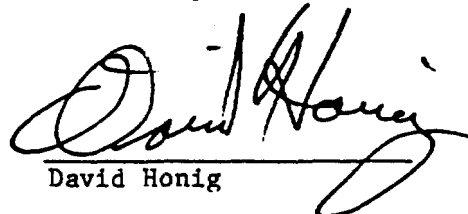
James L. Winston, Esq.
Rubin Winston & Diercks
1730 M St. N.W. #412
Washington, D.C. 20036
Counsel for Northeast

Charles Dziedzic, Esq.
FCC Hearing Branch
2025 M Street N.W. #7212
Washington, D.C. 20554

Allan G. Moskowitz, Esq.
Kaye Scholer et al.
901 15th St. N.W. #1100
Washington, D.C. 20005
Counsel for Sage

Arthur V. Belendiuk, Esq.
Smithwick & Belendiuk
2033 M Street N.W.
Washington, D.C. 20036
Counsel for Johnson

Joyce E. Morgan
2372 Pacific Silver Dr.
Jacksonville, FL 32216
Principal of JEM


David Honig

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Applications of) MM Docket No. 91-10
WHITE BROADCASTING PARTNERSHIP)
et al.) File No. BPH-891214MM
)

For Construction Permit for a New FM Station
Station on Channel 289A in Baldwin, Florida

To: Hon. Edward Luton, Administrative Law Judge

PETITION FOR LEAVE TO AMEND AND AMENDMENT

Peaches Broadcasting, Ltd., by counsel, hereby petitions to
amend its application to report that the following application has been
designated for hearing:

Rupert of East Baton Rouge Broadcasting L.P., File No.
BPH-881215NQ, MM Docket No. 90-634 (HDO released January
28, 1991)

Peaches' limited partner, United Communications, Inc. ("UCI")
is a limited partner holding a 75% equity interest in Rupert. Peaches
has no interest in Rupert's application, but reports the designation of
Rupert's application for hearing for \$1.65 purposes, in order to keep
its application current.

Accordingly, the attached Amendment should be accepted and this
Petition granted. See Erwin O'Conner Broadcasting Co., 22 FCC2d 140,
143 (Rev. Bd. 1970).